

DELEGATE J. CLARK (presiding): Delegate Byrnes.

DELEGATE BYRNES: Concerning the interpretation of the word "damaged," I must ask whether you had the opportunity to read the memorandum prepared by Mr. Burgess?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: Yes, I am familiar with it, but I am going to yield to Delegate Burgess because he prepared it. He and I have talked about it and the Committee has gone into it considerably, but let me defer to Delegate Burgess.

DELEGATE J. CLARK (presiding): Delegate Burgess.

DELEGATE BURGESS: The answer is yes, we did. We intend it to cover areas not presently covered under the concept of eminent domain in the area of compensation.

DELEGATE J. CLARK (presiding): Delegate Byrnes.

DELEGATE BYRNES: Does the Committee intend to incorporate the memorandum as the supporting document for future interpretations of the word "damaged"?

DELEGATE J. CLARK (presiding): Delegate Burgess.

DELEGATE BURGESS: I would feel it would not be a proper statement of the fact inasmuch as this is a memorandum prepared by certain members of the Committee, if you will, and the staff, in connection with our position here on the floor.

DELEGATE J. CLARK (presiding): Delegate Byrnes.

DELEGATE BYRNES: I would have to refer to specific questions.

Would, for example, the word "damage" include damage to the market value of a property which may be occasioned, for example, by the following circumstances: If a condemned property, Lot A, was taken, and they did not take property across the street on Lot B, but the taking of Lot A occasioned a loss or diminishment in the property value of Lot B, would the word "damaged" permit the owner of Lot B to demand compensation for the damage occasioned by the taking of Lot A even though there was no physical taking but simply a diminishment in market value?

DELEGATE J. CLARK (presiding): Delegate Burgess.

DELEGATE BURGESS: The broad answer would be yes, the depreciation in value would have to be by reason of damage to the land or the property rights in that land.

DELEGATE J. CLARK (presiding): Delegate Byrnes.

DELEGATE BYRNES: Would it include, for example, the lot. Let me put it this way.

If the State, as it has done on many occasions in the City, condemned a great number of residential blocks and there was a store on the fringe of that condemned area which profited by the residents of that area that was condemned, could he demand compensation by the State for the loss of that market?

DELEGATE J. CLARK (presiding): Delegate Burgess.

DELEGATE BURGESS: The damage under our concept here would relate only to the difference in the market value of his property and would not relate to a percentage or figure of business which he might have lost.

DELEGATE J. CLARK (presiding): Delegate Byrnes.

DELEGATE BYRNES: If he lost his market, would not his property value be diminished to that extent?

DELEGATE J. CLARK (presiding): Delegate Burgess.

DELEGATE BURGESS: You ask me to appraise the property in a hypothetical situation here. I would think that logically, yes, it would affect the market value of the property and that he would rightfully be entitled to some compensation.

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: May I just comment on this, Delegate Byrnes?

The concept here is an additional, new concept that has not existed in the Maryland law at this point.

The present status of the Maryland law is this, that if there is a physical intrusion on the property, physical taking of the property, there is a taking which is compensable.

If there is only a damage, diminution in value which does not involve a physical taking or a denial of access to the property